ORDER RECEIVED/FOR FILING
Date

1

9y

IN RE: PETITION FOR VARIANCE

S/S Holabird Avenue, 227' W of

the c/l of Marshall Road (7239 Holabird Avenue) 12th Election District 7th Councilmanic District

Thomas W. Atkins Petitioner * BEFORE THE

DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 99-62-A

*

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Thomas W. Atkins. The Petitioner seeks relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 36 feet in lieu of the required 50 feet for a two-story addition and deck enclosure. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition was Thomas Atkins, property owner. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 3,068 sq.ft., zoned D.R.10.5, and is improved with an end-of-group townhouse dwelling which contains two apartments. The Petitioner has owned the property for the past 5 years. Mr. Atkins testified that he constructed a two-story addition with an open deck above to the rear of the existing dwelling some 3 or 4 years ago. He recently commenced enclosing the deck portion of the addition at which time a neighbor filed a complaint with the Code Enforcement Division of the Department of Permits and Development Management (DPDM). The Petitioner

was advised to file the instant Petition for Variance to allow the addition and enclosed deck to remain.

Photographs of the subject addition were submitted into evidence as Petitioner's Exhibit 2. Testimony indicated that the addition/deck enclosure is similar to other such improvements in the neighborhood. Mr. Atkins testified that he is nearing retirement age and intends to utilize the enclosed deck area to maintain plants in conjunction with his hobby in horticulture. The first floor portion of the addition will be used as living space by the tenants who lease the first floor apartment from him, while the basement portion of the addition is a common area used by both the tenants and Mr. Atkins.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented,

I am persuaded to grant the variance. It is clear that strict compliance

ORDER RECEIVED FOR FILING
Date

By

with the zoning regulations would result in an undue hardship for the Petitioner, inasmuch as the two-story addition and deck itself have existed on the property for several years without prior complaint. Furthermore, the Petitioner indicated that his enclosure is similar to and conforms with other such enclosures in the neighborhood. As noted above, no one appeared in opposition to the Petitioner's request and there were no adverse comments submitted by any Baltimore County reviewing agency. Thus, it appears that relief can be granted without causing any detriment to the health, safety or general welfare of the surrounding community, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this day of October, 1998 that the Petition for Variance seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 36 feet in lieu of the required 50 feet for a two story addition and deck enclosure, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

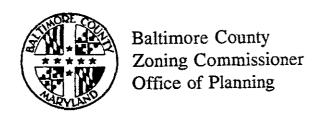
1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs



Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204 410-887-4386

October 1, 1998

Mr. Thomas W. Atkins 7239 Holabird Avenue Dundalk, Maryland 21222

RE: PETITION FOR VARIANCE

S/S Holabird Avenue, 227' W of the c/l of Marshall Road

(7239 Holabird Avenue)

12th Election District - 7th Councilmanic District

Thomas W. Atkins - Petitioner

Case No. 99-62-A

Dear Mr. Atkins:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours, Sunth, Matron

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

cc: Code Enforcement Division, DPDM

People's Counsel; Case Files



K

tition for Variance

to the Zoning Commissioner of Baltimore County

for the property located a	
	which is presently zoned DR. 10.5
This Petition shall be filed with the Department of Pethe undersigned, legal owner(s) of the property situate in Bahereto and made a part hereof, hereby petition for a Variance of the yard setback of 36'; in	ermits & Development Management altimore County and which is described in the description and plat attached
Property on other side of a 2. I improved my property alor 3. To give the Tevants an end 4. My enclosure conforms with Property is to be posted and advertised as presc, or we, agree to pay expenses of above Veriance advertising	Law of Baltimore County; for the following reasons: (indicate hardship or alley 15 0 whed by myself, no with increasing the value of other proportiosed area for children to play in winter other proporties in Wighborhood. Cribed by Zoning Regulations. It, posting, etc., upon filing of this petition, and further agree to and are to are County adopted pursuant to the Zoning Law for Baltimore County.
Contract Purchaser/Lessee	I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition Legal Owner(s)
(Type or Print Name)	THOMAS W. ATKINS (Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City State Zipcode Attorney for Petitioner	Signature
Type or Print Name)	X7239 HOLABIRD AVE. D410-282-0682
Signature	City State Zipcode Name, Address and phone number of representative to be contacted
ddress Phone No.	Jerry N. ATKINS
ity State Zipcode	7239 HOLABIRD AVE. 410-282-0682. Address Phone No. day/nigh
	OFFICE USE ONLY ESTIMATED LENGTH OF HEARING
	the following dates Next Two Months

Printed with Soybean Ink on Recycled Paper Revised 9/5/95

ORDER RECEIVED FOR FILING

REVIEWED BY: 99-62-A

#62

OTHER

Zoning Description

ZONING DESCRIPTION FOR 7239 H	OLABIRD AVE.
	(400.000)
Beginning at a point on the	side of
HOLABIRD AVE.	
HOLABIRD AVE.	(number of feet of right-of-way width)
wide at the distance of 227 (number of feet) (WEST of the
(number of feet) (north, south, east or west)
centerline of the nearest improved intersecting	street MARSHALL RD
	(name of street) .
which is	wide. *Being Lot #
Block,Section # in the subdiv	rision of MARSHALL CONSTRUCTION
	(name of subdivision)
as recorded in Baltimore County Plat Book *_	0013, Folio #_0069,
containing 3068 square feet . Also I (square feet or acres)	CHOWN as 7239 HOLABIRD AVE.
(square feet or acres)	(property address)
and located in the 2 Election District, 7	_ Councilmanic District.

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber___, Folio__" and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Typical metes and bounds: N.87 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

99.62-A#65

BALTIMORE COUNTY, MAR ND OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No. 056111	
DATE_ 8/4/9) ACCOUNT_ROL	1 613 0	PROCESS ASTUR THE 8/05/1998 D/G4/1998 15:G9:JR PEI MSGS CASHIER PMES PEN IRAME 5 MISIELLAWARS CASH RECEIPT
AMOUNT \$ 5	0.05	17 MO. (56111
FROM: Themes Atkins		Bultimore County, Haryland
FOR: 610 Zuning Variance		
DISTRIBUTION	99.	62-A
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER	Item # 62	CASHIER'S VALIDATION

MOTICE OF ZORING

The Zoning Commissioner of Battimore County, by authority of the Zoning Act and Regulations of Battimore County will hold a public hearing in <u>Towson. Maryland</u> on the property identified herein as fellows:

Case. #99-62-A
7239 Holabird Avenue
SS Holabird Avenue, 400° W
of Detvale Avenue
12th Election District
7th Councilmanic District
Legal Owner(s):
Thomas W, Atkins
Variance: to allow a rear yard
setback of 36 feet in lieu of the
required 50 feet.
Hearing: Tuesday, September 22, 1998 at 11:00 a.m.,
in Room 407, County Counts
Blig., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

NOTES (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353. (2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

9/017 Sept 3

C255569

CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept. 5, 1979.

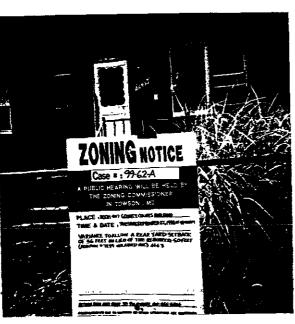
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on 1978.

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

CERTIFICAT OF POSTING

. RE	E: Case No.: 99-62-4
	Petitioner/Developer: ATKINS, ETA
	Date of Hearing/Closing: 9/22/98
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	•
Attention: Ms. Gwendolyn Stephens	-
Ladies and Gentlemen:	
This letter is to certify under the penalties of perjurwere posted conspicuously on the property located	
The sign(s) were posted on(Mo	9/4/98 onth, Day, Year)
	Sincerely,
	R.A. a. W. No. D. 915/9



(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

523 PENNY LANE

(Address)

HUNT VALLEY, MD. 21030

(City, State, Zip Code)

410-666-5366; CELL-410-905-8571

(Telephone Number)

7239 HOLABIRD

Development Processing County Office Building 111 West Chesapeake Aver Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES.

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

			•	
	ARNOLD	JABLON,	DIRECTOR	
For newspaper advertising:		~~~~~~		
Item No.: 62				
Petitioner: THOMAS W. ATK	INS		•	
LOCATION: 7239 HOLABIRD AVE. DO	UNDALL	CM.	21777	
ADVERTISING BITT INC		1000	LILL	
AME: THOMAS W. ATKINS				
DORESS: 7239 HOLABIPD AUE T	DUNDAL	K. MT	2127-7	
				<u>=</u>
HONE NUMBER: 410-282-0682				7
:ggs		•	**************************************	
•		(Revise	ed 09/24/96	:
			· •	

Printed with Sovbean link on Recycled Paper

99-62-A

#61

Exhibit B

Request for Zoning: Variance, Special Exception, or Special Hearing
Date to be Posted: Anytime before but no later than
Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 99-62-A

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

DATE AND TIME:				<u></u>	<u> </u>		
REQUEST: Varian	וכע -	n nor a	rear	yarl.	setback	of	36' in
lieu of	the	requir	ed :	501.			
	-	7					
			<u> </u>	<u> </u>		, ,	
	··						
			·				

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

9/96 post_4.doc TO: PATUXENT PUBLISHING COMPANY

September 3, 1998 Issue - Jeffersonian

Please forward billing to:

Thomas W. Atkins

410-282-0682

7239 Holabird Avenue Dundalk, MD 21222

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-62-A 7239 Holabird Avenue

S/S Holabird Avenue, 400' W of Delvale Avenue 12th Election District - 7th Councilmanic District

Legal Owner: Thomas W. Atkins

<u>Variance</u> to allow a rear yard setback of 36 feet in lieu of the required 50 feet.

HEARING:

Tuesday, September 22, 1998 at 11:00 a.m. in Room 407, County Courts

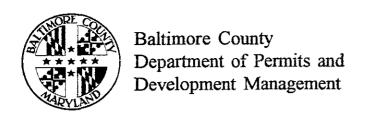
Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

August 14, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-62-A
7239 Holabird Avenue
S/S Holabird Avenue, 400' W of Delvale Avenue
12th Election District - 7th Councilmanic District
Legal Owner: Thomas W. Atkins

Variance to allow a rear yard setback of 36 feet in lieu of the required 50 feet.

Tuesday, September 22, 1998 at 11:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Arnold Jabion

HEARING:

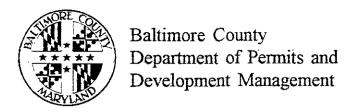
Director

c: Thomas W. Atkins Jerry N. Atkins

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY SEPTEMBER 7, 1998.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

September 17, 1998

Mr. Jerry Atkins 7239 Holabird Avenue Dundalk. MD 21222

RE: Item No.: 62

Case No.: 99-62-A

Location: 7239 Holabird Avenue

Dear Mr. Atkins:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on August 4, 1998.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours

W. Carl Richards, Jr. Zoning Supervisor

Zoning Review

WCR:ggs

Enclosures



BALTIMORE COUNT

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO:

FROM:

POM

R. Bruce Seeley.

Permits and Development Review

DEPRM

SUBJECT:

Zoning Advisory Committee

Meeting Date:

The Department of Environmental Protection & Resource Management has no Comments for the following Zoning Advisory Committee Items:

qz:2BS

BRUCE2/DEPRM/TXTS8P

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: August 21, 1998

Department of Permits & Development

Management

FROM:

Robert W. Bowling, Chief Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for August 24, 1998

Item Nos. 057, 059, 060, 062, 063,

064, 065, 066, and 067

Revised plans (with no review) for

Case #99-24-SPHXA (6350 Frederick Road)

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



Parris N. Glendening Governor David L. Winstead Secretary Parker F. Williams Administrator

Ms. Gwen Stephens Baltimore County Office of Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204

Baltimore County 8.14.91 RE:

Item No.

062

Dear Ms. Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Thank you for the opportunity to review this item.

Very truly yours,

I. J. Hell

/ Ronald Burns, Chief

Engineering Access Permits

Division

LG

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director Department of Permits and Development Management **DATE**: August 19, 1998

FROM: Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comments on the following petitions (s):

Item Nos. 32, 55, 57, 59, 62, and 66

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at (401) 887-3480.

Section Chief: July W Long

AFK/JL

	*	BEFORE THE
RE: PETITION FOR VARIANCE 7239 Holabird Avenue, S/S Holabird Ave, 400'	*	ZONING COMMISSIONER
W of Delvale Ave, 12th Election District, 7th Councilmanic	*	FOR
Legal Owners: Thomas W. Atkins	*	BALTIMORE COUNTY
Petitioner(s)	*	Case Number 99-62-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of August, 1998, a copy of the foregoing Entry of Appearance was mailed to Thomas W. Atkins and Jerry N. Atkins, 7239 Holabird Avenue, Baltimore, MD 21222, Petitioner(s).

PETER MAX ZIMMERMAN

prepared by: J. ATKINS Scale of Drawing: 1'= 50'#	North date: 7-24-95	29.5 - 29.5 - 21 - 3	5-40-EY	DECK LX20X 23 Max	4		7237 7239 7241	FRONT	FLORENCE & FRONT PONALD AMAN RITTER	MARSHALL RD. (60' R/W, 36 PAVING)				THOMAS W. A	MARSHALL CONTRICTION	
M 6% 8-62-A	reviewed by: ITEM #: CASE#:	Prior Zoning Hearings: NONE	_	# 106 704 SEWER: X	Violation Natice- Rahles	Lot size: 3068	1'-200' scale map#: SESE	Councilmante District		Western scale: 1'- 1000'	Larway College College	THE RESERVE OF THE PARTY OF THE	Y B	The state of the s	of the CHECKLIST for additional required information	

99-62-A

A #=

Petiteirer's Chlibit 2 photographs 99-62-A





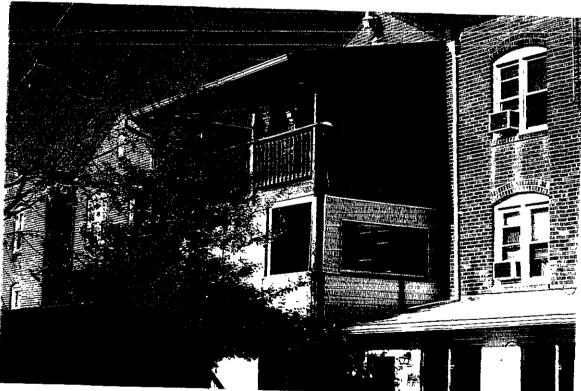












S ES €'000